

PLANNING COMMITTEE

Wednesday 8 February 2023

Present:-

Councillor Emma Morse (Chair)
Councillors Asvachin, Bennett, Bialyk, Branston, Jobson, Lights, Mitchell, M, Moore, D, Newby and Snow

Apologies for Absence

Councillors Foale, Hannaford and Sutton

Also Present

Deputy Chief Executive, Service Lead City Development, Assistant Service Lead - Development Management (Major Projects), Principal Project Manager (Development Management) (CC), Principal Highway Development Management Officer, Planning Solicitor and Democratic Services Officer (HB)

1

MINUTES

The minutes of the meeting held on 10 October 2022 were taken as read, approved and signed by the Chair as correct.

2

DECLARATIONS OF INTEREST

Councillor M. Mitchell declared an interest in Minute No. 4.

3

PLANNING APPLICATION NO. 22/0537/OUT - LAND AT ST. BRIDGET NURSERY, EXETER

The Principal Project Manager (Development Management) (CC) presented the outline planning application for the demolition of existing buildings and structures and the phased development of up to 350 dwellings and associated infrastructure and open space. (All matters reserved except access).

The Principal Project Manager (Development Management) (CC) described the location of the site through photos, aerial views, an illustrative layout plan and drawings and its relationship to the adjacent road network.

The report also setting out the following key elements:-

- the principle of development;
- access and impact on local highways;
- parking;
- noise from A379;
- impact on trees, biodiversity and air quality;
- affordable housing;
- contaminated land;
- archaeology;
- flood risk and surface water management;

- sustainable construction and energy conservation;
- CIL/Section106, and
- Development Plan, Material Considerations and Presumption in favour of sustainable development.

The Principal Project Manager (Development Management) (CC) advised that:-

- the proposal was to develop up to 350 dwellings on the site, including 35% affordable homes, together with supporting infrastructure and open space, following the demolition of the existing buildings and structures;
- whilst an illustrative layout plan had been submitted, it was for information purposes only, and the final layout of the scheme, together with all other detailed design considerations, including open space and landscaping, would be subject to future reserved matters applications; and
- in assessing the outline application and access the proposal was considered to be a sustainable development when balancing the Development Plan policies, National Planning Policy Framework 2021 (NPPF) policies, including the presumption in favour of sustainable development in paragraph 11, National Planning Practice Guidance (NPPG), and the constraints and opportunities of the site; and
- the recommendation was for approval, subject to a Section 106 Agreement and the conditions as set out in the report.

The Principal Project Manager (Development Management) (CC) provided details on highway matters:-

- in terms of access, a new road was proposed through the site, with alterations at both the western and eastern sides;
- vehicle access to the site would be from Rydon Lane onto the new main street with closure of access through Old Rydon Lane from the west. Exits from the site would be at the Rydon Lane access point and a new access onto Old Rydon Lane (heading east) which would become a one-way street;
- two secondary access points would be created onto Old Rydon Lane, as well as use of the existing access point (exit only). The section of Old Rydon Lane between these access points would be downgraded to a 'green lane'; and
- there could be a potential connection on the northeast site boundary to the adjoining undeveloped land and a pedestrian/cycle connection to the existing cycle route to the north to be secured in the Section 106 legal agreement to improve site permeability/connectivity.

The Principal Project Manager (Development Management) (CC) provided the following concluding points:-

- the site was allocated for residential in the Local Plan, the Core Strategy, the Newcourt Masterplan and the draft Exeter Plan;
- access points are not considered to generate significant safety concerns, with suitable capacity on Rydon Lane and improvements to Old Rydon Lane for vehicles, pedestrians and cyclists. Potential for access to the north-east in future would further improve this;
- affordable Housing of 35% to be secured via a Section 106 agreement;
- noise impacts may occur from Rydon Lane, however mitigation is proposed and is considered acceptable in principle, subject to further details at Reserved Matters;
- there were a number of trees on-site. Protection or mitigation measures will be dealt with at Reserved Matters; and

- flood risk can be managed on site through swales and basins with full design at Reserved.

The following responses were given to Members' queries:-

- the County Council transport team would examine the bus route through the estate as part of Reserved Matters to ensure that the route linked appropriately to other City bus routes and that there would be sufficient space within the estate to accommodate bus movements;
- similarly, pedestrian and cycle routes would be determined at Reserved Matters stage with linkage to the land to the north east in the event that this was also brought forward for development;
- as part of planning applications, the highway team examine traffic accident statistics over the previous five years which had shown three personal accident injuries in that period;
- the through road in the estate would relieve traffic pressure on Old Rydon Lane;
- the status of the land to the north east of the site was not part of this planning application and it was not the responsibility of the County Council highways team to negotiate with third parties;
- it was not possible to compare average traffic movements on similar junctions elsewhere in the County;
- the Highway Authority had been consulted on the proposal and, having assessed the submitted Transport Assessment and associated drawings, considered that the proposal would not generate severe impacts on the local network and had raised no objections to the development;
- the trees on the proposed main entrance and the two other entrances were of lower quality. Their future and final numbers would be determined at Reserved Matters stage as part of the landscaping scheme;
- the play areas to be provided would cater for all ages; and
- the proposed dwelling number of 350 was greater than the figure of 334 set out in the Local Plan and had been set to accommodate a mix of house types, appropriate garden size and green open space. This figure could change should there be on-site restrictions.

Councillor Ellis-Jones, having given notice under Standing Order No. 44, spoke on the item. He raised the following points:-

- appreciate the need to meet the five year housing supply target and that the site is allocated for development in the Local Plan and the Newcourt Master Plan;
- the proposal to alter the Old Rydon Lane and Rydon Lane junction and create a new road leading into the site will create dangerous traffic conditions;
- there have been two near fatal traffic accidents, one in the last four weeks and one three years ago;
- the proposal for a one way system into Holland Park will create a rat run elsewhere on the network;
- a suitable alternative would be to secure access onto the A379 at the Newcourt Way roundabout and the offer of the third party to accommodate this should be examined; and
- concern regarding the removal of condition 8 and its incorporation into the Section 106 Agreement relating to the requirement for agreement of any Traffic Regulation Order.

Responding to a Member, he detailed the route of the bus service through the local network and the Newcourt estate.

The Chair reported the following points made by Councillor Leadbetter who had apologised for being unable to attend the meeting under Standing Order No. 44 and wished to comment in his capacity as a County Councillor, asking that the application be turned down:-

- the views of the residents, who have the necessary local knowledge and have highlighted the dangers of using the access off Rydon Lane should be supported;
- there is another access available and offered up which has been provided for this development and the developer needs to facilitate this;
- it is unacceptable that residents of Old Rydon Lane will lose the ability to turn out of their road onto Rydon Lane; and
- this application should be refused, or deferred to allow further discussions on the road access.

The Principal Project Manager (Development Management) (CC) provided the following concluding points:-

- the proposed development was considered to be acceptable. The site fell within the Newcourt strategic allocation (Policy CP19), which had been proposed for around 3,500 dwellings (which this development will contribute towards), employment land and associated infrastructure. In effect, the principle of allowing housing on this site had already been established through the adoption of this policy. The proposal was also consistent with the Newcourt Masterplan (2010), which indicated residential development on this part of the strategic allocation area. Furthermore, whilst it carries very limited weight at present, the site was allocated for housing (334 dwellings) in the new Exeter Plan (unadopted); and
- the access proposals were considered to be acceptable, subject to securing additional links in a Section 106 legal agreement, to enhance the connectivity of the scheme to its surroundings. The Section 106 Legal Agreement must also secure 35% affordable housing and various other infrastructure.

Members expressed the following views:-

- whilst the principle of development is accepted there is much concern regarding the access points, the impact on the existing road network and road safety. It is not a car free development, the detail of pedestrian and cycle provision is unclear and there are also question marks regarding public transport. The developer should be asked to think again;
- Old Rydon Lane residents note the principle of development but have serious concerns regarding road safety;
- the offer from a third party to help secure a safer access onto the A379 should be considered;
- the status of Old Rydon Lane as a “green lane” will be finally lost with the provision of 350 dwellings;
- given the concerns around traffic safety, further consultation should be undertaken to examine alternative options for the highway network and the access to the site. Alternative options, if supported at outline stage, could be incorporated into the reserve stage application; and
- the offer to consult on the proposal put forward by the third party should also be taken up.

The recommendation was for approval, subject to a Section 106 Legal Agreement and the conditions as set out in the report.

A motion to defer the application for a review of options for the highway network was moved and seconded, voted upon and carried unanimously.

RESOLVED that the planning application for the demolition of existing buildings and structures and the phased development of up to 350 dwellings and associated infrastructure and open space. (All matters reserved except access), be **DEFERRED** for further consideration of highway matters.

4

PLANNING APPLICATION NO. 21/1014/FUL - 68-72 HOWELL ROAD, EXETER

Councillor M. Mitchell declared an interest and did not participate in the debate or vote on this matter. He spoke on this matter from the floor as a member of the public.

The Service Lead City Development presented the planning application for the demolition of the garage workshop and construction of four three-storey (plus basement) purpose-built student accommodation units, numbering 26 bedrooms.

The Service Lead City Development described the site's location through the site plan, an aerial view, a location plan, photos, floor plans and plans of the front and rear elevations and a contextual street scene showing the height of the building with the height of neighbouring properties. The site comprised a wide plot with a large, corrugated garage building over six metres in height, formerly used for vehicle repairs. The area was dominated by terraced housing, predominantly inhabited by students on this part of Howell Road, Danes Road and Hoopern Street. The site was in the Longbrook Conservation Area. The building did not positively contribute to the area.

For the original submission (comprising 29 beds), 54 public comments had been made in objection to the proposed development. A further 26 representations had been received following a re-consultation on the revised scheme for 26 beds. All but three were objections; two were neutral, and one letter of support from the immediate neighbour at 67 Howell Road superseded a previous objection. This was because the applicant had addressed concerns about the relationship between the properties, and the use was appropriate in this location.

The report also set out the following key elements:-

- the principle of development;
- impact on heritage assets and amenities;
- parking and accessibility;
- contamination;
- energy;
- scale, design, impact on character and appearance; and
- impact on ecology.

The Service Lead City Development advised that the key issues were:

- scale and massing;
- principle of student housing;
- amenity; and
- landscape.

It was considered that the proposal was compliant with Exeter Local Development Framework Core Strategy Policies CP5 - Student Accommodation, CP10 - Meeting Community Needs, CP15 - Sustainable Construction and CP17 - Design and Local Distinctiveness and to Exeter Local Plan First Review 1995-2011 policies AP1 - Design and Location of Development, AP2 - Sequential Approach, H1 - Search Sequence, H2 - Location Priorities, H5 - Diversity of Housing, T1 - Hierarchy of Modes, T2 - Accessibility Criteria, T3 - Encouraging Use of Sustainable Modes, T10 - Car Parking Standards, C1 - Development in Conservation Areas, EN2 - Contaminated Land, EN5 - Noise, DG1 - Objectives of Urban Design, DG2 - Energy Conservation and DG7 - Crime Prevention and Safety and to the NPPF.

The following responses were given to Members' queries:-

- Policy H5 of the Local Plan deals with accommodation for students stating that the scale and intensity of use should not harm the locality nor create an overconcentration in one area of the city which would change the character of the neighbourhood or create an imbalance in the local community;
- in the absence of a clear definition of a community imbalance in a neighbourhood, there would be a risk at an appeal of not being able to demonstrate community imbalance;
- there were three criteria in the St. James Neighbourhood Plan Policy C2 where student accommodation would be acceptable, being the presence of a gap in the residential provision, parking would not have an unacceptable effect on the area and where scale and massing were broadly similar to surrounding buildings. The proposal met all three;
- the area had a residents' parking scheme; and
- a similar scheme at Well Street had been refused but not challenged on appeal.

Councillor K. Mitchell, having given notice under Standing Order No. 44, spoke on the item. He raised the following points:-

- am predominately here to protect and support the principles of the Exeter St. James Neighbourhood Plan;
- the report omitted several aspects that it has not covered and chosen not to state several issues;
- whilst the report says that the target of Policy CP5 of the Exeter Core Strategy to provide 75% of new student accommodation since 2012 has not been met, it does not set the context. The Planning Member Working Group report of 18 October 2022 stated that, although 64% of the additional student numbers are housed within Purpose Built Student Accommodation (PBSA), due to existing consents for PBSA's, mainly at the Universities Clydesdale site and the University itself projecting its student numbers will fall between now and 2026/27 the report demonstrates the 75% target will be met by 2024/25 at 75.4% and will increase to 79.8% in 2025/26 and 83.8% in 2026/27;
- once that 75% target is met, areas with a high proportion of student housing should be protected in favour of areas that do not. There is not, therefore, a justification for this accommodation in this location;
- concerning the Exeter Local Plan Policy H5 (b), which states that there should not be an over-concentration of student accommodation in an area to change its character or create an imbalance, the Planning Member Working Group report of October 2022 showed that 47% of properties within the St. James Neighbourhood Plan area was student housing, so there is an imbalance - yet the report states that the Council has not defined the Policy H5 (b) community imbalance;

- regarding the Supplementary Planning Document (SPD) Houses in Multiple Occupation agreed by the Council's Executive on 5 July 2011, the Council proposed to resist any further changes of use to Houses in Multiple Occupation (HMO) where the proportion of homes exempt from Council Tax already exceeds 20%. In other words, the Council will regard a proportion greater than 20% as an over-concentration of HMO use for Policy H5 (b);
- in the Executive report of January 2014, the adopted Supplementary Planning Document (SPD) identified that proposals for HMOs would be resisted where the proportion of properties exempt from Council Tax due to entire occupation by full-time students exceeded 20% in a ward or part of a ward covered by an Article 4 Direction that removed 'Permitted Development' rights for changes of use from Class C3 (family homes) to Class C4 (small HMO's for three to six persons);
- the recent Article 4 Review report referred to a 20% threshold, and the Inspector, regarding the appeal for 4 Dinham Road, referred to the vulnerability of the existing policies but did reference 20% as the level within the policy that causes imbalance. However, he highlighted that Dinham Road had not hit that threshold, so he allowed the appeal. According to the Planning Member Working Group report last year, Howell Road has 27% HMOs, with most of the HMOs concentrated adjacent to or near the proposed site, and the St. James Neighbourhood Plan area has 47% HMOs. Therefore it would be reasonable to expect an inspector to accept an imbalance already exists at this location;
- there is an over-concentration within the neighbourhood of St. James. Therefore this application should be rejected;
- the report only refers to the Neighbourhood Plan Policy C2 and therefore does not give the context of the Plan as a whole. It also gives a barrister's opinion provided by the applicant and arguably takes the Plan out of context. The Neighbourhood Plan was adopted via a referendum, with 91.6% in favour of its adoption. The overarching aim of the Plan is for a balanced community with the desire of the residents of St. James to have a diverse population which includes people at all stages of their lives and which is not dominated by a single group of the population. The City Council has defined 'balance' using the number of Council Tax exemptions in a given area as a proxy for HMO and student accommodation. When over 20% of properties in a defined area are Council Tax exempt, it is generally considered that additional HMOs would change the character of the area and undermine the maintenance of a balanced and mixed community; and
- the application should be refused as it will cause a further imbalance contrary to the Neighbourhood Plan's overarching aims, there is no further need for PBSA's within this locality and the application is contrary to the overriding purposes of the Exeter St. James Neighbourhood Plan.

Councillor Pearce, having given notice under Standing Order No. 44, spoke on the item. He raised the following points:-

- It is essential to defend the St. James Neighbourhood Plan as much as possible;
- Section 8(5) of the Planning and Compulsory Purchase Act 2004 states that where there are two conflicting policies, the precedent should be given to the latest document approved, and the last published document is the Neighbourhood Plan which was adopted after a referendum with support of over 93% in favour. Therefore the policies within the Neighbourhood Plan superseded the Local Plan. All the policies referred to in the Local Plan supporting the proposal should be disregarded entirely;
- the barrister's opinion cited by the applicant is only there to intimidate the Committee; it is not an independent opinion and should be disregarded;

- it is a windfall infill site, as referred to in Policy SD3 of the Neighbourhood Plan. The proposal for student accommodation runs roughshod over this policy - it is not affordable housing for residents or even high-quality residential property but a PBSA;
- a similar garage windfall infill site at Well Street was refused on the grounds of imbalance and was accepted by the developer without challenge, and
- the area is entirely imbalanced with excessive student accommodation and HMOs. As it is an exempted area within the Article 4 provision, it is already imbalanced, which is further exacerbated by this proposal.

Councillor M. Mitchell, speaking as a member of the public, made the following points:-

- am speaking in support of refusal;
- if approved, the application will undermine critical aspects of the Neighbourhood Plan and Policy 5H (b) of the Local Plan and would open the door for further recommended approvals in other wards;
- many in the community have objected in detail to the application;
- much in the report is an opinion and should be subjected to critical analysis;
- there is a statement on the application form that states that the area is dominated by student housing; however, Howell Road is made up of long-term residents and students and is, therefore, a mixed community;
- nine buildings adjacent to this site are HMOs, so the number of students in that small area will be doubled with a consequence for community balance in the area;
- the community is not opposed to the re-development of the site but to the nature and impact of the proposal, particularly concerning community balance and conflict with the Neighbourhood Plan;
- two applications in the area should be considered - the 2016 planning application regarding the garage site at Well Street for 95 students was refused, citing Policy 2C (a) of the Neighbourhood Plan and 5H (b) of the Local Plan with no appeal. That decision should be relevant to this application;
- the other site is in Hoopern Street, a former Victorian School and then a warehouse. Four two-bed infill terraced houses were granted planning permission in 2018 with two positive comments and no objections because it was compliant with both the Neighbourhood Plan and the Local Plan; and
- as with other areas, more housing is required but not for students.

He responded as follows to Members' queries:-

- this is within a large area covered by residential parking, but no spare parking capacity exists on this street. The application seeks parking spaces on the road at the front of the site, but this will impact adversely on fire engines from the Fire Station, effectively making the area from Horseguards to Prison Lane a one-way street; and
- there are many cars in the area but few bikes, and parking is already a critical issue for residents.

Ms Connett, speaking against the application, made the following points:-

- the report had serious flaws, and the recommendation was unsound;
- the application did not meet the requirements of Policy C2 of the St. James Neighbourhood Plan;

- the application was non-compliant with National Planning Policy Framework and, therefore, was in breach of the Planning and Compulsory Purchase Act 2004;
- it failed to consider the Neighbourhood Plan in reaching its recommendation or to acknowledge the claims of the Exeter St. James Forum, as a statutory consultee, that the application was non-compliant with four Development Plan policy clauses;
- it quoted from a barrister's opinion on Policy C2, obtained by the applicant, but there was no mention of this opinion in any of the published documentation;
- the report claimed that the applicant had demonstrated compliance with all three clauses, abrogating the duty of the Planning Authority to present its unbiased professional assessment;
- it appears the barrister may have misread the policy wording in reaching a flawed conclusion, but the report failed to address this;
- the report quoted the barrister's 'frightener', a warning of costs following appeal should the application be refused; and
- to meet legal requirements and avoid further endangering St. James's fragile social sustainability, the application should be rejected.

Mrs Jones, speaking in support of the application, made the following points:-

- the St. James Neighbourhood Plan, made in 2013, 10 years ago, accepted that student accommodation would be required in this area, given it is so close to the University;
- a planning barrister, following objection to the proposal from residents stating that it is contrary to Policy C2 of the Neighbourhood Plan, had concluded the development site was an infill site that would be restored by the development and was not contrary to Policy C2 as the development is not in an "intact" street but in a street which is not intact as it contains a gap;
- the report states that no harm has been evaluated as arising and, instead, only positive planning benefits are concluded, particularly as the current site does not make a positive contribution to the neighbourhood;
- the appeal decision reinforces the barrister's view in respect of an application in St. David's where the Inspector held "local opposition... is not itself sufficient grounds to withhold planning permission" for student accommodation;
- the scheme is not a barometer for the wider debate about the University, students and the city;
- Section 62 of the National Planning Policy Framework (NPPF) supports the objective of supplying housing, including student accommodation;
- since the original submission, the number of student bed spaces has been reduced, and the size, bulk and massing have also altered. The applicant has accommodated every change that the planning department has asked for;
- the neighbour closest to the scheme supports the application and accepts it would be an improvement to the street scene; and
- the scheme will allow for removing the double yellow lines in front of the site for additional parking or short-term delivery bays as the Highways Authority see fit.

She responded as follows to Members' queries:-

- the applicant first approached the planning department during the Lockdown, and there were no objections until the documentation had been made public;
- concerning contributing to a mixed and balanced community, Section 62 of the NPPF lists several dwelling types, one of which is student accommodation;
- the developer's approach was to consider the need for PBSAs generally in the area; and

- the proposal was not discussed with the Bury Meadow Residents' Association or the St James Neighbourhood Forum.

The Service Lead City Development advised that there was no St James Neighbourhood Plan policy to justify refusal on the grounds of community imbalance. Policy SD3 of the Neighbourhood Plan referred to affordable housing development in respect of an infill site, not student accommodation. Whilst Policy H5 of the Local Plan was relevant, relying on the St. James Neighbourhood Plan was not possible. He reiterated this advice following a query by a Member on the policies that should be relied on in determining the application.

The Planning Solicitor advised that consideration had been given to the letter from the barrister for the applicant and that its content agreed with the references in the report to the policies in both the St. James Neighbourhood Plan and the Local Plan.

It was noted that the Devon and Somerset Fire and Rescue Service had not objected to the proposal.

Members expressed the following views:-

- Policy SD3 of the St. James Neighbourhood Plan seeks affordable housing on windfall infill sites. The Plan's vision is for a balanced community, and as the student percentage has increased from 48% to 60%, there is an imbalance;
- it would be appropriate to test policy, particularly around community balance;
- the barrister's advice should be disregarded, and the determination on the application should have regard to the decisions on the Well Street and Hoopern Street applications;
- one of the prime reasons for the Neighbourhood Plan coming into being was the concern regarding community balance. The Hoopern Street application had been supported because community balance would be improved, but putting 26 students in 11 square metre shoeboxes would further disrupt the balance in the neighbourhood and cause further loss of amenities to the residents;
- Policy SD3 should not be ignored and should indicate to a developer that affordable housing on this infill site would help address the imbalance issue and would be supported by residents;
- the area benefits from an active Residents' Association, which the developer should have consulted. This showed a lack of understanding of the local community;
- if the application is approved, a condition should be added that no parking permits be issued;
- students dominate too many wards in the city, and the application should be refused;
- the application should be supported as additional family homes are needed, and students also need to be housed, so housing, in whatever format, should be welcome;
- having a view on community balance is not an anti-student stance as they play an essential part in and contribute to local communities;
- the higher proportion of HMOs and PBSAs in a community results in a transient population, making it challenging to develop a community spirit;
- the ward Councillors and the chair of the St. James Neighbourhood Forum have made it clear that the objective of the Neighbourhood Plan is to foster a balanced community, and this objective is also set out in Policy H5 of the Local Plan;
- planning policies should seek to create areas that are suitable for both short-term and long-term residents regardless of status and role in society; and

- it is a good design, but the developer should be encouraged to seek an alternative proposal.

The recommendation was for approval, subject to a Section 106 Legal Agreement and the conditions as set out in the report.

Members were minded to refuse the application, and accordingly, it was moved that the Service Lead City Development be requested to report back to the next meeting of this Committee with the full technical reasons for refusal. The motion was seconded, voted upon and carried.

RESOLVED that the application be **DEFERRED** for the Service Lead City Development to report reasons for refusal to the next meeting.

The meeting adjourned at 19:32 and re-convened at 19:43.

5

PLANNING APPLICATION NO. 22/0770/FUL - BUCKERELL LODGE HOTEL, TOPSHAM, EXETER

The Service Lead City Development presented the planning application to construct 62 Retirement Apartments (Category II Type Sheltered Housing) with communal facilities and car parking (revised plans).

The Service Lead City Development described the location of the site through the site location plan, an aerial view, photos, floor plans and elevations, explaining that the site was bounded to the north, east and west by residential properties of a domestic scale, mainly confined to one and two storeys. The surrounding area was primarily residential. The site was currently occupied by Buckerell Lodge, which until recently had been operating as a hotel. The hotel had gone into administration following a difficult period due to the COVID-19 pandemic.

The report also sets out the following key elements:-

- the principle of development;
- scale, design, impact on character and appearance;
- impact on amenities;
- impact on landscape or heritage assets
- access and parking; and
- affordable housing.

The Service Lead City Development provided the following additional detail:-

- revisions had been made to a previously refused scheme following consideration by the Design Review Panel;
- planning consent was being sought to demolish the existing building and construct a three-storey U-shaped building with a flat roof across the north-eastern half of the site;
- the development would provide 62 units of accommodation as older persons' homes for 'retirement living'. In total, there would be 23 two-bed apartments and 39 one-bedroom apartments. A communal lounge area would be provided on the ground floor. Communal amenity space would be provided at the front and rear of the building;

- the site utilises the existing access from Topsham Road. To the eastern boundary would be the proposed car park, with 40 spaces offered, including two accessible parking spaces and an electric buggy store;
- the financial contribution of £52,475 to primary and secondary healthcare was broken down as £16,128 and £36,347, respectively, and
- an additional condition to be added on the request of Devon County Council as the Lead Flood Authority for detailed design to be provided of surface water drainage.

The following responses were given to Members' queries:-

- an illustrative plan showing the relationship with the neighbourhood has been provided. It showed a drop-down of the western elevation to reflect the topography and a reduced impact on neighbours. The relationship with neighbours complied with design guidance in respect of any adverse effect relating to overbearing and overlooking; and
- changes to the earlier scheme included setbacks and different materials and were acceptable to the Design Review Panel.

Councillor Vizard, having given notice under Standing Order No. 44, spoke on the item. He raised the following points:-

- While the loss of a hotel on this site was regrettable, this is not pertinent to the decision. The Buckerell Lodge site is a valuable haven of trees, biodiversity and wildlife, but it has previously been developed, and it is generally accepted that it is a suitable site for homes. The St. Leonard's community is not against the development of this site but seeks an appropriate development that is not harmful to the area;
- is the application for 62 private flats in a three-storey building, replacing an existing low-rise building, an appropriate development, and the scale and massing do not differ to any significant extent from the original proposal previously refused;
- one of the reasons for the refusal of the initial application was the lack of affordable housing provision. While it is good that a sum of money has been agreed as a contribution towards affordable homes elsewhere, this is not the same as providing affordable homes on this site;
- the Devon Wildlife Consultant states, "*Schedule 14 of the Environment Act 2021 will require a minimum 10% Biodiversity Net Gain (BNG) as a condition of planning permission in England*". The development will likely result in a minor net gain in biodiversity on the site. Mitigations and enhancements must not be minimal or a potential loss over time through lack of ongoing management;
- the proposal does not protect the character and amenities of the neighbourhood;
- the original refusal cited the following - "*The proposal is contrary to Objective 9 and policies CP4 and CP17 of the Exeter Local Development Framework Core Strategy, saved policies DG1(c), DG1(g), DG1(h), DG1(i), DG4(a) and DG6(a) of Exeter Local Plan and Exeter City Council Supplementary Planning Document: Residential Design 2010 because as a result of the size, massing, position and external appearance of the building, and the layout of the site, the proposed scheme would:- i) present an unduly large, unsympathetic and poorly designed form of development that would not fit comfortably within its plot or with the character of the local area; and, iv) represent an overdevelopment of the site to the detriment of the character and appearance of the local area;*"

- the Urban Design and Landscaping comments obtained by the Council amplify the objections to the massing and character of the proposed development;
- the replacement building has a larger footprint than the existing one, meaning that at its western end, it is substantially closer to eight existing dwellings on Barrack Road and one dwelling on Topsham Road, and the vertical massing means that the overall impact is greater three-dimensionally than that of the existing, pitched roofed building;
- the Urban Design and Landscaping consultant agrees with the *objection...in respect of the massing and general scale of the building. For me, the biggest question remaining is still about the overall scale of the building in relation to the site and neighbouring buildings.*”;
- a reduction of just three units and a minor alteration in architectural design address does not address the original objections. This development, if approved, would cause substantial harm to the visual and environmental amenities of the site, as well as to neighbouring homes and this part of the city;
- having first refused an application on substantive material grounds, then subsequently accepting following the smallest of concessions sends the wrong message;
- the proposal runs contrary to the Council’s Core Strategy and Local Plan, and
- the Committee should demonstrate a continuing commitment to appropriate development around Topsham Road and to mitigating and minimising harm by refusing the application on the grounds of it being unsuitable and unsympathetic scale and overdevelopment in relation to the site, the neighbourhood and adjacent homes.

Mr Beacham speaking against the application raised the following points:-

- am also representing neighbours, my wife and myself, having been residents of a property neighbouring the Buckerell Lodge Hotel since 1976 and having worked myself as Director of Heritage Protection at English Heritage and involved in many large-scale developments of sensitive historic sites in major English cities including with Exeter City Council and Land Securities to achieve the re-development of Princesshay;
- the Buckerell Lodge Hotel site is an important survival of Exeter’s historical development, being one of a string of villas set in spacious landscaped grounds erected along the road from the city towards Topsham from the 18th Century onwards. Their defining character was that the building was subservient to its generous sylvan setting, which was richly planted. Some sense of a ‘villa in a wood’ is conveyed in the Lodge element of the name and its connection with the internationally important Royal Veitch Nurseries;
- the objection is to the scale and its detrimental effect on both the intrinsic character of the site and the neighbourhood. Achieving the number of residential units proposed requires a predominantly three-story structure occupying almost the full width of the site at its northern high point, up-ending the historic hierarchy, the proposed new structure dominating its setting rather than being subservient to it, adversely impacting its neighbourhood of modest single and two storied houses;
- the City Council’s refusal letter of 21 January 2022 stated that the scheme would present an unduly large, unsympathetic and poorly designed form of development that would not fit comfortably within its plot or with the character of the local area and it would also represent an over development of the site to the detriment of the character and appearance of the local area. Nothing has changed, and
- the reduction in residential units from 65 to 62 has a marginal effect. The core issue remains that the excessive scale of the proposed development is

inappropriate for this important site. Therefore, the principal grounds of the City Council's original refusal must stand.

He responded as follows to Members' queries:-

- whilst Buckerell Lodge was not listed, it did not necessarily mean that it did not have developable value as a site; and
- the impact on the neighbourhood is understated as many adjacent properties are bungalows and semi-detached properties in Barrack Road, and the properties to the rear in Buckerell Avenue will face the three-storey element of the development instead of a green canopy.

Mr Bendinelli, speaking in support of the application, made the following points:-

- the proposal has been carefully considered by the applicant following positive discussions with the Design Review panel after which it was refined in its detailing as well as reducing its footprint and massing;
- the report concludes that the proposal is considered to be a sustainable development when balancing the development plan policies, National Planning Policy Framework 2021 policies, paragraph 11, National Planning Practice Guidance (NPPG), and the constraints and opportunities of the site;
- benefits include an affordable housing contribution of £345,555 plus CIL of £312,747 and a Health Care Contribution of approximately £52,000;
- the proposal would meet the requirement of Policy H5 of the Local Plan and Policy CP5 of the Core Strategy in that it would meet a particular housing need for an ageing population. It will offer greater security and convenience and reduced feelings of isolation and vulnerability and will improve independence, health and well-being of residents;
- most residents will have family and friends in the locality and can remain an important part of the local community;
- there will be a reduced demand on public sector resources and health services. Residents have better health and well-being and spend fewer nights in hospital, reducing impact upon NHS resources; and
- it would release under occupied family homes and help boost local supply and help meet the Council's five year housing land supply.

He responded as follows to Members' queries:-

- the lifts are located to the right hand side of the main entrance;
- it is a typical design for a facility of this nature and is referenced in the Planning Officers' Society's Retirement Accommodation Guide;
- the internal corridor with units to the side is a standard design and advice has been taken from independent architects;
- the building design was refined after the earlier refusal and further modifications taken on board after consideration by the Design Review Panel. The top floor had been changed quite significantly and a reduction in units reduced the overall floor space by 330 square metres;
- the figure of £345,555 for affordable housing was reached after a viability assessment;
- it is a Category 2 Sheltered accommodation comprising self-contained flats and with a house manager on site from 9:00am to 5:00pm with a Care-line System;
- a University of Oxford study has shown that occupants show improved health and well-being with a NHS saving of £3,500 per individual. Whilst the entry age is 60, generally those in late 60's and 70's are the typical cohort after bereavement or ill-health;

- it is a quality, stand-alone design surrounded by houses. An ancillary plan shows the relationship with the street scene;
- McCarthy and Stone are lead providers of this type of facility which was not a care home and the units are some 15% larger than 10 years ago; and
- typically 50% of residents come from within a five mile radius, 70% within 20 miles with the remainder from further afield but quite often with family and friends connections in the area.

The Service Lead City Development concluded that the proposal was considered to be a sustainable development when balancing the development plan policies, National Planning Policy Framework 2021 (NPPF) policies, including the presumption in favour of sustainable development in paragraph 11, National Planning Practice Guidance (NPPG), and the constraints and opportunities of the site. A Section 106 legal agreement and conditions were necessary to secure affordable housing, infrastructure contributions and other aspects of the development to make it acceptable in planning terms. He emphasised that the reasons for approval now included the support of the urban designer who opposed the initial scheme and that it would be difficult to ignore the strong reasons in support of approval.

Members expressed the following views:-

- given the housing needs of the city and the general shortage of affordable homes, the provision of houses in whatever format was to be welcome. Provision for the elderly possessed the added advantage of freeing up homes in the city, as many of the residents would have downsized; and
- whilst the Buckerell Lodge Hotel had been part of an earlier, well-presented historical development within large, landscaped grounds, and its loss would be regrettable, the site itself following demolition of the hotel was suitable for development with the proposal put forward an acceptable alternative.

The recommendation was for approval, subject to a Section 106 Legal Agreement and the conditions as set out in the report.

The recommendation was moved and seconded voted upon and carried.

RESOLVED that, subject to a Section 106 Agreement under the Town and Country Planning Act 1990 (as amended) to secure the following:-

- a financial contribution towards affordable housing provision of £345,555; and
- a financial contribution to primary and secondary healthcare of £52,475.

All Section 106 contributions should be index linked from the date of resolution.

The Director City Development be authorised to **GRANT** planning permission for the construction of 62 Retirement Apartments (Category II Type Sheltered Housing) with communal facilities and car parking (revised plans), subject also to the following conditions:-

1) The development to which this permission relates must be begun not later than the expiration of three years beginning with the date on which this permission is granted.

Reason: To ensure compliance with sections 91 and 92 of the Town and Country Planning Act 1990.

2) The development hereby permitted shall not be carried out otherwise than in strict accordance with the submitted details received by the Local Planning Authority

(as explained and listed in the attachments to the agent's email dated 5 January 2023) as modified by other conditions of this consent.

Reason: In order to ensure compliance with the approved drawings.

3) Samples of the materials it is intended to use externally in the construction of the development shall be submitted to the Local Planning Authority. No external finishing material shall be used until the Local Planning Authority has confirmed in writing that its use is acceptable. After that, the materials used in the development construction shall correspond with the approved samples in all respects.

Reason: To ensure that the materials conform to the visual amenity requirements of the area.

4) Unless otherwise agreed in writing, a detailed scheme for landscaping, including the planting of trees and or shrubs, the use of surface materials and boundary screen walls and fences shall be submitted to the Local Planning Authority, and no dwelling or building shall be occupied until the Local Planning Authority has approved a scheme; such scheme shall specify materials, species, tree and plant sizes, numbers and planting densities, and any earthworks required together with the timing of the implementation of the scheme. The landscaping shall, after that, be implemented in accordance with the approved scheme in accordance with the agreed programme.

Reason: To safeguard the rights of control by the Local Planning Authority in these respects and the interests of amenity.

5) In the event of failure of any trees or shrubs planted in accordance with any scheme approved by the Local Planning Authority to become established and to prosper for five years from the date of the completion of the implementation of that scheme, such trees or shrubs shall be replaced with such live specimens of such species of such size and in such number as may be approved by the Local Planning Authority.

Reason: To safeguard the rights of control by the Local Planning Authority in these respects and the interests of amenity.

6) Pre-commencement condition: No materials shall be brought onto the site or any development commenced until the developer has erected tree protective fencing around all trees or shrubs to be retained, in accordance with drawing 1519-KC-XX-YTREE-TREEPROTECTIONPLAN01REVB.PDF. The developer shall maintain such fences to the satisfaction of the Local Planning Authority until all development that is the subject of this permission is completed. The level of the land within the fenced areas shall not be altered without the prior written consent of the Local Planning Authority. No materials shall be stored within the fenced area, nor shall trenches for service runs or any other excavations take place within the fenced area except by written permission of the Local Planning Authority. Where such approval is granted, the soil shall be removed manually without powered equipment.

Reason for pre-commencement condition - To ensure the protection of the trees during the carrying out of the development. This information is required before development commences to protect trees during all stages of the construction process.

7) Any trees, shrubs and/or hedges on or around the site shall not be felled, lopped or removed without the prior written consent of the Local Planning Authority.

Reason: To safeguard the rights of control by the Local Planning Authority in these respects and the interests of amenity.

8) Pre-commencement condition: No development (including ground works) or vegetation clearance works shall occur until a Construction Method Statement has

been submitted and approved in writing by the Local Planning Authority. The Statement shall provide for the following:

- a) The site access point(s) of all vehicles to the site during the construction phase.
- b) The parking of vehicles of site operatives and visitors.
- c) The areas for loading and unloading plant and materials.
- d) Storage areas of plant and materials used in constructing the development.
- e) The erection and maintenance of securing hoarding, if appropriate.
- f) Wheel washing facilities.
- g) Measures to monitor and control the emission of dust and dirt during construction (including, but not limited to, the measures recommended in Section 7 of Tetra Tech's Air Quality Assessment (reference no: 784-B027972, date: April 2021).
- h) No burning on-site during construction or site preparation works.
- i) Measures to monitor and minimise noise/vibration nuisance to neighbours from plant and machinery.
- j) Construction working hours and deliveries from 7:30 to 18:00 Monday to Friday, 8:00 to 13:00 on Saturdays and at no time on Sundays or Bank Holidays.
- k) No driven piling without prior consent from the LPA.

The approved Statement shall be strictly adhered to throughout the construction period of the development.

Reason for the pre-commencement condition: In the interests of the occupants of nearby buildings. This information is required before development commences to ensure that the impacts of the development works are appropriately considered and addressed at the earliest possible stage.

9) Pre-commencement condition: No part of the development hereby approved shall be commenced until adequate areas shall have been made available within the site to accommodate operatives' vehicles, construction plant and materials in accordance with details that shall previously have been submitted to, agreed and approved in writing by the Local Planning Authority and retained for the construction period.

Reason for the pre-commencement condition: To ensure that adequate on-site facilities are available for the construction traffic attracted to the site. This information is required before development commences to ensure that the impacts of the development works are appropriately considered and addressed at the earliest possible stage.

10) Unless otherwise agreed in writing, the development hereby approved shall not be brought into its intended use until secure cycle parking facilities for residents and visitors have been provided in accordance with details that shall previously have been submitted to and approved in writing by the Local Planning Authority. After that, the said cycle parking facilities shall be retained for that purpose at all times.

Reason: To ensure that cycle parking is provided in accordance with Exeter Local Plan Policy T3.

11) If, during demolition/development, contamination not previously identified is found to be present at the site, then the Local Authority shall be notified as soon as practicable, and no further development (unless otherwise agreed in writing with the Local Planning Authority), shall be carried out until the developer has submitted an investigation and risk assessment, and where necessary a remediation strategy and verification plan, detailing how this unsuspected contamination shall be dealt with. Before the occupation of any part of the development, a verification report

demonstrating the completion of the works in the approved remediation strategy shall be submitted to and approved by the Local Planning Authority.

Reason: In the interests of the amenity of the occupants of the buildings hereby approved.

12) Before the occupation of any dwelling hereby approved, details of the provision for nesting swifts shall be submitted to and agreed upon in writing by the Local Planning Authority. Upon written approval of the details, the scheme shall be fully implemented as part of the development and retained after that.

Reason: In the interests of preserving and enhancing biodiversity in the locality.

13) Unless otherwise agreed in writing the development shall be carried out in accordance with the submitted Energy Statement - March 2021 which demonstrates that a 19% reduction in CO2 emissions over that necessary to meet the requirements of the 2013 Building Regulations for the relevant parcel of the site can be achieved. The measures required to achieve this CO2 saving shall then be implemented on the relevant parcel of the site. Within three months of the practical completion of any dwelling/building, the developer will submit a report to the LPA from a suitably qualified consultant to demonstrate compliance with this condition.

Reason: In the interests of sustainable development and to ensure that the development accords with Core Strategy Policy CP15.

14) Each unit of the residential accommodation hereby permitted shall be occupied only by persons 60 years old or over and the occupants' partners over 55 years old.

Reason: The scheme is designed for a specific age group and is unsuitable for unrestricted occupation.

15) The noise mitigation and ventilation recommendations in Tetra Tech's Noise Assessment (reference no.: 784-B027972, date: May 2022) shall unless otherwise agreed in writing with the LPA, be implemented in full before the occupation of the development and maintained after that.

Reason: In the interests of amenity.

16) No external lighting shall be installed on the site or the building hereby permitted unless details of the lighting have previously been submitted and approved in writing by the Local Planning Authority (including location, type and specification). The particulars shall demonstrate how the lighting has been designed to minimise impacts on local amenities and wildlife (including isoline drawings of lighting levels and mitigation if necessary). The lighting shall be installed in accordance with the approved details.

Reason: To ensure lighting is well designed to protect the area's amenities and wildlife.

17) No part of the development hereby approved shall be brought into its intended use until the Travel Plan measures outlined in the submitted document 205605-TRAVEL PLAN-V3 have been provided in accordance with details that shall be submitted to, and approved in writing by, the Local Planning Authority.

Reason: To ensure that the development promotes all travel modes to reduce reliance on the private car, in accordance with paragraph 111 of the NPPF.

18) No part of the development hereby approved shall be brought into its intended use until the vehicular parking and turning facilities have been provided in accordance with the approved plans. After that, they shall be retained for that purpose at all times.

Reason: To provide safe and suitable access in accordance with Paragraph 32 of the National Planning Policy Framework.

Further **RESOLVED** that B, the Director City Development be authorised to **REFUSE** planning permission for the reasons set out below if the legal agreement under Section 106 Agreement under the Town and Country Planning Act 1990(as amended) is not completed by 16 July 2023 or such extended time as agreed in writing by the Director City Development.

In the absence of a Section 106 legal agreement in terms that are satisfactory to the Local Planning Authority being completed within an appropriate timescale, and which makes provision for the following matters:-

- a financial contribution towards affordable housing provision of £345,555; and
- a financial contribution to primary and secondary healthcare of £52,475.

the proposal is contrary to Exeter Core Strategy Policies CP7 & CP18, and Exeter City Council Affordable Housing Supplementary Planning Document 2014.

6 **LIST OF DECISIONS MADE AND WITHDRAWN APPLICATIONS**

The report of the Director City Development was submitted.

RESOLVED that the report be noted.

7 **APPEALS REPORT**

The schedule of appeal decisions and appeals lodged was submitted.

RESOLVED that the report be noted.

8 **SITE INSPECTION PARTY**

RESOLVED that the next Site Inspection Party will be for all Planning Committee Members and will held on Tuesday 14 March 2023 at 9.30 a.m.

(The meeting commenced at 5.30 pm and closed at 8.30 pm)

Chair